PATENT APPLICATION

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IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s):   David P. Ferguson

Application No.: 09/679,691

Filing Date: 10-5-00

Confirmation No.: 9007

Examiner: El Chanti

Group Art Unit: 2157

Title: **Device Detection System and Method**

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TRANSMITTAL OF APPEAL BRIEF

Transmitted herewith is the Appeal Brief in this application with respect to the Notice of Appeal filed on _____1-17-06_____ .

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(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

☐(a) Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d)) for the total number of months checked below:

☐   1st Month   ☐   2nd Month   ☐   3rd Month   ☐   4th Month
         $120 $450 $1020 $1590

☐ The extension fee has already been filed in this application.

☒(b) Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Please charge to Deposit Account 08-2025 the sum of _____$ 500_____ . At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees. A duplicate copy of this sheet is enclosed.

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Respectfully submitted,

David P. Ferguson

By_____

David Rodack, Esq.

Attorney/Agent for Applicant(s)

Reg No. :   47,034

Date :   1-17-06

Telephone :   (770) 933-9500

Rev 10/05 (AplBrief)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

David P. Ferguson

Serial No.: 09/679,691

Filed: October 5, 2000

For: **Device Detection System and Method**

Group Art Unit: 2157

Examiner: El Chanti

Docket No. 10004941-1

APPEAL BRIEF UNDER 37 C.F.R. §41.37

Mail Stop: Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This Appeal Brief under 37 C.F.R. §41.37 is submitted in support of the Notice of Appeal filed January 17, 2006, responding to the Final Office Action mailed November 16, 2005.

It is not believed that extensions of time or fees are required to consider this Appeal Brief. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. §1.136(a), and any fees required therefor are hereby authorized to be charged to Deposit Account No. 08-2025.

1

I. Real Party in Interest

The real party in interest is Hewlett-Packard Development Company, LP, a limited partnership established under the laws of the State of Texas and having a principal place of business at 20555 S.H. 249 Houston, TX 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware Corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holdings, LLC.

II. Related Appeals and Interferences

There are no known related appeals or interferences that will affect or be affected by a decision in this Appeal.

III. Status of Claims

Claims 1-38 stand finally rejected. No claims have been allowed. The final rejections of claims 1-38 are appealed.

IV. Status of Amendments

This application was originally filed on October 5, 2000, with thirty-four (34) claims. In a Response filed May 27, 2004, Applicant amended claims 1, 11, 21, and 31. Applicant filed a Request for Continued Examination (RCE) on August 10, 2004. In a Response filed January 5, 2005, Applicant amended claims 1, 11, 21, 31 and added new claims 35-38. In a Response filed June 20, 2005, Applicant amended claim 25.

All of the above-identified amendments have been entered. No other amendments have been made to any of claims 1-38. The claims in the attached Claims Appendix (see below) reflect the present state of the claims.

V. Summary of Claimed Subject Matter

The claimed inventions are summarized below with reference numerals and references to the written description ("specification") and drawings. The subject matter described in the following appears in the original disclosure at least where indicated, and may further appear in other places within the original disclosure.

Independent claim 1 describes a method for detecting devices connected to a network. The method of claim 1 comprises sending a scan request to a remote command process running on a remote network host. Applicant's specification, page 9, lines 11-13, 16-17; Figure 3, item 308.

The method of claim 1 further comprises scanning the network host with the remote command process to identify peripheral devices that are directly connected to the host. Applicant's specification, page 10, lines 1-5; Figure 4, items 404 and 406.

The method of claim 1 further comprises receiving a response to the scan request from the remote command process that indicates what devices are connected to the network host. Applicant's specification, page 10, lines 5-6; Figure 4, item 408.

Independent claim 11 describes a device detection system for detecting devices connected to a network. The system of claim 11 comprises means for sending a scan request to a remote command process running on a remote network host. Applicant's

3

specification, page 5, lines 10-15, page 9, lines 11-13, 16-17; Figure 1, item 102; Figure 3, item 308.

The system of claim 11 further comprises means for scanning the network host with the remote command process to identify peripheral devices that are directly connected to the host. Applicant's specification, page 5, lines 16-20; page 10, lines 1-5; Figure 1, item 104; Figure 4, items 404 and 406.

The system of claim 11 further comprises means for receiving a response to the scan request from the remote command process that indicates what devices are connected to the network host. Applicant's specification, page 5, lines 10-15; page 10, lines 5-6; Figure 1, item 102; Figure 4, item 408.

Independent claim 21 describes a device detection system for detecting devices connected to a network. The system of claim 21 comprises logic configured to send a scan request to a remote command process running on a remote network host. Applicant's specification, page 5, lines 10-15, page 9, lines 11-13, 16-17; Figure 1, item 102; Figure 3, item 308.

The system of claim 21 further comprises logic configured to scan the network host with the remote command process to identify peripheral devices that are directly connected to the host. Applicant's specification, page 5, lines 16-20; page 10, lines 1-5; Figure 1, item 104; Figure 4, items 404 and 406.

The system of claim 21 further comprises logic configured to receive a response to the scan request from the remote command process that indicates what devices are connected to the network host. Applicant's specification, page 5, lines 10-15; page 10, lines 5-6; Figure 1, item 102; Figure 4, item 408.

Independent claim 31 describes a device detection system for remotely detecting devices connected to a network. The system of claim 31 comprises a controller process running on a first network host, the controller process being configured to send a scan request to a remote network host. Applicant's specification, page 5, lines 10-15, page 9, lines 11-13, 16-17; Figure 1, item 102; Figure 3, item 308.

The system of claim 31 further comprises a remote command process running on a second network host, the remote command process being configured to receive the scan request sent by the controller process and initiate a scan of the second network host to identify peripheral devices that are directly connected to the second network host. Applicant's specification, page 5, lines 16-20; page 9, lines 17-19; page 10, lines 1-5; Figure 1, item 104; Figure 4, items 404 and 406.

VI. Grounds of Rejection to be Reviewed on Appeal

The following ground of rejection is to be reviewed on appeal:

Claims 1-38 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Goshey, et al. ("Goshey," U.S. Pat. No. 6,473,783).

VII. Arguments

The Appellant respectfully submits that Applicant's claims are not anticipated under 35 U.S.C. § 102, and respectfully requests that the Board of Patent Appeals overturn the final rejections of those claims at least for the reasons discussed below.

As is noted above, claims 1-38 have been rejected under 35 U.S.C. § 102(e) as being anticipated by <u>Goshey, et al.</u> ("Goshey," U.S. Pat. No. 6,473,783). Applicant respectfully traverses this rejection.

It is axiomatic that "[a]nticipation requires the disclosure in a single prior art reference of each element of the claim under consideration." *W. L. Gore & Associates, Inc. v. Garlock, Inc.,* 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983). Therefore, every claimed feature of the claimed invention must be represented in the applied reference to constitute a proper rejection under 35 U.S.C. § 102(e).

In the present case, not every feature of the claimed invention is represented in the Goshey reference. Applicant discusses the Goshey reference and Applicant's claims in the following.

A.   The Goshey Disclosure

Goshey discloses a method and apparatus for sharing peripheral devices over a network. As is described by Goshey, "Server ScanLan" code is installed on a first networked computer 112b (the "server") and "Client ScanLan" code is installed on a second networked computer 112d (the "client"). <u>Goshey</u>, column 5, lines 32-37. With this configuration, the client computer can access and use peripheral devices that are connected to the server computer. <u>Goshey</u>, column 5, lines 7-12, lines 32-37.

Although Goshey discloses an "interrogator" 204 resident on the client computer that is configured to determine what peripheral devices are connected *to the client computer* (<u>Goshey</u>, column 4, lines 58-64), Goshey does not disclose a program or component that is configured to determine what peripheral devices are connected to *other computers.*

B.   Applicant's Claims

Goshey fails to explicitly teach several of Applicant's claim limitations. Applicant discusses some of those claim limitations in the following.

1.   Claims 1-10 and 35

Applicant's independent claim 1 provides as follows (emphasis added):

> 1.   A method for detecting devices connected to a network, comprising:
>
> *sending a scan request to a remote command process running on a remote network host*;
>
> scanning the network host with the remote command process to identify peripheral devices that are directly connected to the host; and
>
> *receiving a response to the scan request from the remote command process that indicates what devices are connected to the network host.*

(a)   "Sending a Scan Request"

As is apparent from the above claim, Applicant explicitly recites the action of "sending a scan request to a remote command process running on a remote network host". Simply stated, Goshey does not teach that action. Although, as is mentioned above, Goshey does disclose use of an "interrogator" on a client computer to determine what devices are connected to *that* computer, Goshey does not describe any interrogator or other tool that sends a request *to another computer to determine what peripheral devices are on that computer.*

7

In the first final Office Action, the Examiner argued that Goshey teaches sending a scan request, and cited column 5, lines 55-67 of the Goshey disclosure for support. That portion of the Goshey disclosure provides as follows:

FIG. 2D shows the SCSI Explorer.TM. 202 window after the ScanLAN code has been loaded onto at least computers 112b and 112d of FIG. 2C in accordance with one embodiment of the present invention. As shown, the SCSI device list 206 is now expanded to include host adapter 116b (and peripheral devices 118, 120 and 121), which is physically connected to the computer 112b. Accordingly, when a user of the computer 112d uses the interrogator 204 to determine what peripheral devices and host adapters are connected to computer 112d, the SCSI device list 206 will also include the peripheral devices that are connected to computer 112b, as if they were physically connected to computer 112d. [Goshey, column 5, lines 55-66]

As can be appreciated from this excerpt, Goshey describes a situation in which a list of devices available on a first computer are presented to the user on a second computer for selection. Despite this teaching, Goshey never discloses *how* the devices are located in the first place, for addition to the list. Instead, it is just *presumed* that the devices are known. In other words, Goshey is *silent* as to how it is first determined what peripheral devices are available on the network.

In the second Final Office Action, the Examiner argued that Goshey teaches sending a scan request, and cited column 6, lines 17-37 of the Goshey disclosure for support. That portion of the Goshey disclosure provides as follows:

. . . remote peripheral devices from a local computer system in accordance with one embodiment of the present invention. The method begins at an operation 302 where the Server/Client ScanLAN code is loaded onto at least a first computer and a second computer. Once the Server/Client ScanLAN code is loaded onto the first and second computer, the setting options of the Server and the Client ScanLAN program, may be modified at each one of the first and second computers.

It should be understood that the first and the second computers are merely two computers that are networked together over any network of computers. In addition, it is contemplated that any one of the networked computers may be loaded with either the Server or the Client ScanLAN code, or both the Server and the Client ScanLAN code, to enable access to the peripheral devices connected to each of the respective networked Server computers.

The method now proceeds to an operation 304 where the first computer is selected. By way of example, a user may have the second computer at a location that is remote from the first computer (e.g., another room, another cubical, another building or the like). When the first computer is . . .

[Goshey, column 6, lines 17-37]

As is clear from the above, Goshey says *nothing* about sending a scan request in column 6, lines 17-37.

In view of the absence of an explanation as to how the available devices are found, it is clear that Goshey lacks the disclosure to anticipate Applicant's claim 1. Specifically, although Goshey discusses *use* of remote peripheral devices, Goshey does not discuss the prior step of *discovering or detecting* those devices. As far as the reader knows, Goshey uses a manual process, such as that described in the Background section of Applicant's disclosure. As is stated in the Background section:

Presently, the existence of such devices is determined *by manually scanning* each host of the network separately.

[Applicant's specification, page 2, lines 2-3 (emphasis added)]

In other words, a user walks up to a first host, scans the host by running a program on the host (like Goshey's "interrogator 204"), manually records the information, moves on to the next host, etc., until all hosts have been manually scanned and a complete list is created. Goshey's system could rely on such a manual process to create the list that is presented to the various client computers. Applicant notes that the distinction is significant. For example, assume the list of devices is created at the beginning of the year. If new devices are added to the hosts of the network later in the year, the list that was created will be out of date and will not reflect all of the available devices. The only way to ensure completeness of the list would be to continually, manually update the list. Applicant's invention automates this discovery/detection process such that it is much easier to update the list of available devices, thereby enabling frequent updating of the list and providing a significant advantage over manual processes, which may be implemented by Goshey.

Regardless of how Goshey's list is actually created, Goshey's disclosure is silent as to this aspect of his system. Because 35 U.S.C. § 102 requires that the applied reference actually *teach each and every limitation* of Applicant's claims, the Goshey reference clearly cannot be said to anticipate Applicant's claim 1.

        (b)   Receiving a Response . . . That Indicates What Devices are Connected to the Network Host

10

Given that Goshey does not disclose sending a scan request to identify devices connected to a remote process, it logically follows that Goshey also does not teach "receiving a response to the scan request from the remote command process that indicates what devices are connected to the network host" as is further required by claim 1.

(c)   Dependent Claims

Applicant further notes that Goshey fails to teach several explicit limitations found in Applicant's dependent claims. For example, Goshey does not teach "receiving *device addresses* from the application program interface and *requesting information from the devices directly via the addresses*" as is provided in claim 5 (emphasis added).

Regarding claim 7, Goshey does not teach "consulting the list prior to sending the scan request". Again, Goshey does not disclose "sending a scan request".

Regarding claims 8 and 9, Goshey further does not teach "sending multiple scan requests to multiple remote command processes running on network hosts" or "wherein the scan requests are sent in parallel". There is simply *no basis* in the Goshey disclosure for such actions.

Regarding claim 35, Goshey does not teach that identified peripherals comprise at least one of "a disk drive, a tape drive, a tape library, and a modem". Regarding column 1, line 60 to column 2, line 2 of the Goshey disclosure, which incidentally is a description of the prior art and not Goshey's system, Goshey states:

> For example, even though computers 12c and 12d may conventionally
> acquire some rudimentary read and write privileges to peripheral devices

20, 22, and 24, they are still not able to issue full standard SCSI commands to those peripheral devices.

Furthermore, neither computer 12a, 12c, nor 12d may gain access or functional use of the scanner 18 that is connected to the computer 12b. This is generally the case because many peripheral devices are not assigned drive letters during boot-up.

[Goshey, column 1, line 60 to column 2, line 2]

As can be appreciated from the above, Goshey does not mention a "disk drive", "tape drive", "tape library", or "modem" in the cited excerpt.

2. Claims 11-20 and 36

Applicant's independent claim 11 provides as follows (emphasis added):

11. A device detection system for detecting devices connected to a network, comprising:

means for sending a scan request to a remote command process running on a remote network host;

means for scanning the network host with the remote command process to identify peripheral devices that are directly connected to the host; and

means for receiving a response to the scan request from the remote command process that indicates what devices are connected to the network host.

Regarding claim 11, Goshey does not teach "means for sending a scan request to a remote command process running on a remote network host" or "means for receiving a response to the scan request from the remote command process that indicates what

devices are connected to the network host", at least for reasons described in above in relation to independent claim 1. For at least those reasons, claims 11-20 and 26 are allowable over Goshey.

Applicant further notes that Goshey fails to teach explicit limitations found in Applicant's dependent claims. For example, Goshey does not teach "means for receiving *device addresses* from the application program interface and *requesting information from the devices directly via the addresses*" as is provided in claim 15 (emphasis added).

Regarding claim 17, Goshey does not teach "means for consulting the list prior to sending the scan request".

Regarding claims 18 and 19, Goshey further does not teach "means for sending multiple scan requests to multiple remote command processes running on network hosts" or "wherein the scan requests are sent in parallel".

Regarding claim 36, Goshey does not teach that identified peripherals comprise at least one of "a disk drive, a tape drive, a tape library, and a modem". Applicant refers to the discussion of claim 35.

3. Claims 21-30 and 37

Applicant's independent claim 21 provides as follows (emphasis added):

21. A device detection system for detecting devices connected to a network, comprising:

logic configured to send a scan request to a remote command process running on a remote network host;

logic configured to scan the network host with the remote command process to identify peripheral devices that are directly connected to the host; and

logic configured to receive a response to the scan request from the remote command process that indicates what devices are connected to the network host.

Regarding Goshey does not teach "logic configured to send a scan request to a remote command process running on a remote network host" or "logic configured to receive a response to the scan request from the remote command process that indicates what devices are connected to the network host", at least for reasons described above in relation to independent claim 1. For at least those reasons, claims 21-30 and 37 are allowable over Goshey.

Applicant further notes that Goshey fails to teach several explicit limitations found in Applicant's dependent claims. For example, Goshey does not teach "logic configured to receive *device addresses* from the application program interface and *requesting information from the devices directly via the addresses*" as is provided in claim 25 (emphasis added).

Regarding claim 27, Goshey does not teach "logic configured to consult the list prior to sending the scan request".

Regarding claims 28 and 29, Goshey further does not teach "logic configured to send multiple scan requests to multiple remote command processes running on network hosts" or "wherein the scan requests are sent in parallel".

Regarding claim 37, Goshey does not teach that identified peripherals comprise at least one of "a disk drive, a tape drive, a tape library, and a modem". Applicant refers to the discussion of claim 35.

4. Claims 31-34 and 38

Applicant's independent claim 31 provides as follows (emphasis added):

> 31.   A device detection system for remotely detecting devices connected to a network, comprising:
>
> a *controller process running on a first network host*, the controller process *being configured to send a scan request to a remote network host*; and
>
> a *remote command process running on a second network host*, the remote command process *being configured to receive the scan request sent by the controller process and initiate a scan of the second network host to identify peripheral devices that are directly connected to the second network host.*

Regarding claim 31, Goshey does not teach "a controller process running on a first network host . . . configured to send a scan request to a remote network host" or "a remote command process running on a second network host . . . configured to receive the scan request sent by the controller process and initiate a scan of the second network host to identify peripheral devices that are directly connected to the second network host" at least for reasons described above in relation to claim 1. At least for those reasons, claims 31-34 and 38 are allowable over Goshey.

15

Regarding claim 38, Goshey does not teach that identified peripherals comprise at least one of "a disk drive, a tape drive, a tape library, and a modem". Applicant refers to the discussion of claim 35.

C. Conclusion

Due to the shortcomings of the Goshey reference described in the foregoing, Applicant respectfully asserts that Goshey does not anticipate Applicant's claims. Therefore, Applicant respectfully requests that the rejection of these claims be reversed.

VII. Conclusion

In summary, it is Applicant's position that Applicant's claims are patentable over the applied prior art references and that the rejection of these claims should be withdrawn. Appellant therefore respectfully requests that the Board of Appeals overturn the Examiner's rejection and allow Applicant's pending claims.

Respectfully submitted,

By: _____

David Rodack
Registration No. 47,034

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17

The following are the claims that are involved in this Appeal.

1.   A method for detecting devices connected to a network, comprising:

sending a scan request to a remote command process running on a remote network host;

scanning the network host with the remote command process to identify peripheral devices that are directly connected to the host; and

receiving a response to the scan request from the remote command process that indicates what devices are connected to the network host.

2.   The method of claim 1, wherein a controller process is used to send the scan request to the remote command process.

3.   The method of claim 2, wherein the controller process runs on a network host.

4.   The method of claim 1, wherein scanning the network host with the remote command process comprises sending a scan request from the remote command process to a host application program interface.

5.   The method of claim 4, wherein scanning the network host with the remote command process further comprises receiving device addresses from the

application program interface and requesting information from the devices directly via the addresses.

6.   The method of claim 1, further comprising maintaining an updated list of each network host running a remote command process with a host lookup process.

7.   The method of claim 6, further comprising consulting the list prior to sending the scan request.

8.   The method of claim 1, further comprising sending multiple scan requests to multiple remote command processes running on network hosts.

9.   The method of claim 8, wherein the scan requests are sent in parallel.

10.   The method of claim 1, further comprising communicating information concerning the detected devices to a user.

11.   A device detection system for detecting devices connected to a network, comprising:

means for sending a scan request to a remote command process running on a remote network host;

means for scanning the network host with the remote command process to identify peripheral devices that are directly connected to the host; and

means for receiving a response to the scan request from the remote command process that indicates what devices are connected to the network host.

12. The system of claim 11, wherein a controller process is used to send the scan request to the remote command process.

13. The system of claim 12, wherein the controller process runs on a network host.

14. The system of claim 11, wherein the means for scanning the network host with the remote command process comprises means for sending a scan request from the remote command process to a host application program interface.

15. The system of claim 14, wherein the means for scanning the network host with the remote command process further comprises means for receiving device addresses from the application program interface and requesting information from the devices directly via the addresses.

16. The system of claim 11, further comprising means for maintaining an updated list of each network host running a remote command process with a host lookup process.

17. The system of claim 16, further comprising means for consulting the list prior to sending the scan request.

18.   The system of claim 11, further comprising means for sending multiple scan requests to multiple remote command processes running on network hosts.

19.   The system of claim 18, wherein the scan requests are sent in parallel.

20.   The system of claim 11, further comprising means for communicating information concerning the detected devices to a user.

21.   A device detection system for detecting devices connected to a network, comprising:

logic configured to send a scan request to a remote command process running on a remote network host;

logic configured to scan the network host with the remote command process to identify peripheral devices that are directly connected to the host; and

logic configured to receive a response to the scan request from the remote command process that indicates what devices are connected to the network host.

22.   The system of claim 21, wherein a controller process is used to send the scan request to the remote command process.

23.   The system of claim 22, wherein the controller process runs on a network host.

24.   The system of claim 21, wherein the logic configured to scan the network host with the remote command process comprises logic configured to send a scan request from the remote command process to a host application program interface.

25.   The system of claim 24, wherein the logic configured to scan the network host with the remote command process further comprises logic configured to receive device addresses from the application program interface and request information from the devices directly via the addresses.

26.   The system of claim 21, further comprising logic configured to maintain an updated list of each network host running a remote command process with a host lookup process.

27.   The system of claim 26, further comprising logic configured to consult the list prior to sending the scan request.

28.   The system of claim 21, further comprising logic configured to send multiple scan requests to multiple remote command processes running on network hosts.

29.   The system of claim 28, wherein the scan requests are sent in parallel.

30.	The system of claim 21, further comprising logic configured to communicate information concerning the detected devices to a user.

31.	A device detection system for remotely detecting devices connected to a network, comprising:

a controller process running on a first network host, the controller process being configured to send a scan request to a remote network host; and

a remote command process running on a second network host, the remote command process being configured to receive the scan request sent by the controller process and initiate a scan of the second network host to identify peripheral devices that are directly connected to the second network host.

32.	The system of claim 31, further comprising a host lookup process that maintains an updated list of every network host that is running a remote command process.

33.	The system of claim 32, wherein the host lookup process runs on the first network host.

34.	The system of claim 32, wherein the host lookup process runs on a third network host.

35. The method of claim 1, wherein the peripheral devices comprise at least one of a disk drive, a tape drive, a tape library, and a modem.

36. The system of claim 11, wherein the peripheral devices comprise at least one of a disk drive, a tape drive, a tape library, and a modem.

37. The system of claim 21, wherein the peripheral devices comprise at least one of a disk drive, a tape drive, a tape library, and a modem.

38. The system of claim 31, wherein the peripheral devices comprise at least one of a disk drive, a tape drive, a tape library, and a modem.

Evidence Appendix under 37 C.F.R. §41.37(c)(1)(ix)

There is no extrinsic evidence to be considered in this Appeal. Therefore, no evidence is presented in this Appendix.

Related Proceedings Appendix under 37 C.F.R. §41.37(c)(1)(x)

There are no related proceedings to be considered in this Appeal. Therefore, no such proceedings are identified in this Appendix.